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January 27, 2022

**VIA ECF**

Honorable Gregory H. Woods  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street, Room 2260  
New York, NY 10007

Re: ***John Doe v. New York University; No. 20-cv-01343 (GHW)***

Dear Judge Woods:

Defendant New York University (“NYU”) hereby submits this letter pursuant to your Honor’s Individual Rules of Practice to request approval to adjourn the potential depositions of three third parties until after the exchange of expert reports. This request will have no impact on the overall case schedule and is being made in order to avoid potentially unnecessary depositions.

There have been no prior requests for an extension or adjournment as to these specific depositions, however the Court has granted the parties’ joint request to extend the deadline for fact discovery on one occasion. The original deadline for completion of depositions was November 30, 2021. This date was extended to January 28, 2022 by the Court’s Order granting the joint request to extend discovery deadlines. (ECF No. 59). Subsequently, and pursuant to paragraph 7(g) of the Case Management Plan (ECF No. 50), the parties agreed to extend the deadline for depositions to March 1, 2022.

The deadline for the completion of fact discovery and for service of opening expert reports is March 1, 2022. The deadline for the completion of expert discovery is May 2, 2022. In order to avoid potentially unnecessary depositions, NYU is requesting that it be permitted to depose Plaintiff’s doctors during the expert phase of

Honorable Gregory H. Woods  
January 27, 2022  
Page 2

discovery in the event that information from those fact witnesses is relied on by Plaintiff's experts.

Plaintiff's interrogatory responses identified Dr. Alfred Herzog, Mr. Todd Harvey, and Dr. Bechara Barrak (each, a "Doctor,"<sup>1</sup> and collectively, the "Doctors") as possessing information relevant to his claims. The Doctors have produced documents that may be relied upon by Plaintiff's experts. Based on the Doctors' productions, and Plaintiff's representation that he does not intend to call the Doctors as primary witnesses, NYU does not believe that a deposition of any Doctor is currently necessary.

However, Plaintiff has represented that he will not stipulate that his expert witnesses will not rely on information from the Doctors as a basis for their opinions. Therefore, Defendant will not know whether any of Plaintiff's experts rely on an observation by a Doctor or documents produced by a Doctor until after Plaintiff serves his expert reports. Accordingly, Defendant requests leave to take depositions of each Doctor after the deadline for the completion of fact discovery and after receiving Plaintiff's expert reports if, upon review, Defendant determines that it is necessary to depose a Doctor or the Doctors. Specifically, Defendant proposes that the deadline for the completion of these three depositions, if necessary, be extended to May 2, 2022. Plaintiff does not object to this extension.

Defendant makes the present application to avoid unnecessary depositions of third parties but to preserve its ability to depose these third parties who have produced relevant evidence upon which Plaintiff's experts rely.

Respectfully submitted,

/s/ Jeffrey P. Metzler  
Jeffrey P. Metzler

*Counsel for Defendant*

cc: All counsel of record

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<sup>1</sup> Mr. Harvey, while not a doctor, is a licensed therapist and has a Master's degree.